

than non-CDBG funds. This will help avoid the situation where it is learned that a problem has developed that will block the completion of the project, even though all or most of the CDBG funds going in to the project have already been expended. When this happens, a recipient may be put in a position of having to provide additional financing to complete the project or watch the potential loss of its funds if the project is not able to be completed. When the recipient determines that it is not practicable to disburse CDBG funds on a pro rata basis, the recipient should consider taking other steps to safeguard CDBG funds in the event of a default, such as insisting on securitizing assets of the project.

[60 FR 1953, Jan. 5, 1995]

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

Subpart A—General

Sec.

572.1 Overview of HOPE 3.

572.5 Definitions.

572.10 Section 8 assistance.

Subpart B—Homeownership Program Requirements—Implementation Grants

572.100 Acquisition and rehabilitation of eligible properties; rehabilitation standards.

572.105 Financing the purchase of properties by eligible families.

572.110 Identifying and selecting eligible families for homeownership.

572.115 Transfer of homeownership interests.

572.120 Affordability standards.

572.125 Replacement reserves.

572.130 Restrictions on resale by initial homeowners.

572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.

572.140 Third party rights.

572.145 Displacement prohibited; protection of nonpurchasing residents.

Subpart C—Grants

572.200 Planning grants.

572.205 Planning grants—eligible activities.

572.210 Implementation grants.

572.215 Implementation grants—eligible activities.

572.220 Implementation grants—matching requirements.

572.225 Grant agreements; corrective and remedial actions.

572.230 Cash and Management Information (C/MI) System.

572.235 Amendments.

Subpart D—Selection Process

572.300 Notices of funding availability (NOFAs); grant applications.

572.315 Rating criteria for planning grants.

Subpart E—Other Federal Requirements

572.400 Consolidated plan.

572.405 Nondiscrimination and equal opportunity requirements.

572.410 Environmental procedures and standards.

572.415 Conflict of interest.

572.420 Miscellaneous requirements.

572.425 Recordkeeping and reports; audit of recipients.

AUTHORITY: 42 U.S.C. 3535(d) and 12891.

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Subpart A—General

§ 572.1 Overview of HOPE 3.

The purpose of the HOPE for Homeownership of Single Family Homes program (HOPE 3) is to provide homeownership opportunities for eligible families to purchase Federal, State, and local government-owned single family properties. HOPE 3 provides grants to eligible applicants to plan and implement homeownership programs designed to meet the needs of low-income first-time homebuyers.

[58 FR 36526, July 7, 1993, as amended at 61 FR 48797, Sept. 16, 1996]

§ 572.5 Definitions.

The terms *HUD*, *Indian Housing Authority (IHA)*, *NAHA*, *1937 Act*, *NOFA*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

Administrative costs means reasonable and necessary costs, as described and valued in accordance with OMB Circular No. A-87 or A-122¹ as applicable, incurred by a recipient in carrying out a homeownership program under this part. For purposes of complying with the 15 percent limitation in § 572.215(o), administrative costs do not include the costs of activities that are separately eligible under § 572.215.

¹ See § 572.420(a) concerning the availability of OMB Circulars.

Applicant means a private nonprofit organization; a cooperative association; or a public body in cooperation with a private nonprofit organization that applies for a HOPE 3 grant under this part. A cooperative association is an eligible applicant only for eligible property it proposes to acquire and transfer ownership interests to eligible families under a homeownership program.

Consolidated plan means the document that is submitted to HUD that serves as the planning document of the jurisdiction, in accordance with 24 CFR part 91.

Cooperating entity means a private nonprofit organization or public body that the lead applicant has designed in its application to carry out certain functions in the HOPE 3 program. The responsibilities of a cooperating entity must be specified in a memorandum of agreement signed by the lead applicant and the cooperating entity.

Cooperative association means an association organized and existing under applicable State, local, territorial, or tribal law primarily for the purpose of acquiring, owning, and operating housing for its members or shareholders, as applicable.

Displaced homemaker means as the term is defined in 42 U.S.C. 12704. The individual must not have worked full-time, full-year in the labor force for at least 2 years.

Eligible family means a low-income family who is a first-time homebuyer.

Eligible property means a single residential property, containing no more than four units, that is owned or held by HUD, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Transportation, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, or any other Federal agency; a State or local government (including any in rem property); or a PHA/IHA (excluding public or Indian housing under the 1937 Act). This definition includes individual condominium units located in multifamily structures owned or held by an eligible source and properties held by institutions within the jurisdiction of the Resolution Trust Corporation. All co-

operative units acquired under HOPE 3 must be located in properties containing no more than four units to qualify as eligible property under this part. In the case of two- to four-unit property, only property that may be divided so each unit may be acquired by an eligible family is eligible, except as provided in §572.115(c). For purposes of this definition, the term State or local government means any entity included in the first sentence of the definition of public body.

First-time homebuyer means as the term is defined in 42 U.S.C. 12704.

Homeownership program means a program for homeownership meeting the requirements under this part. The program must provide for acquisition by eligible families of ownership interests in the units in an eligible property under an ownership arrangement approved by HUD under this part. All eligible properties assisted under the program must be initially acquired by eligible families.

Lead applicant means an eligible applicant designated in a HOPE 3 application to assume legal responsibility as the recipient and execute the grant agreement.

Lease-purchase means

(1) An agreement, enforceable under State (or territorial) and local law, between the recipient or its designee and an eligible family under which the family:

(i) Obtains the right to occupy a unit in an eligible property, subject to the payment of rent and other reasonable lease conditions, for a period of not more than two years, except as provided in §572.115(a)(2); and

(ii) At the end of such two years has the right to purchase the unit under the terms stated in the lease-purchase agreement, including the completion of any additional rehabilitation required during the lease-purchase period.

(2) A lease-purchase agreement qualifies as a transfer of the unit to the eligible family for purposes of the deadline for transfer in §572.115(a), but it is not otherwise an "ownership interest" under this part. The interest that the family acquires at the end of the two-year lease-purchase period must be an ownership interest under this part, and

the terms and conditions of the purchase of such interest must meet the affordability requirements of this part.

Low-income family means a family or individual qualifying as a low-income family under 24 CFR part 813 (where the recipient is not a PHA/IHA), part 913 (where the recipient is a PHA), or part 905 (where the recipient is an Indian tribe or IHA). A low-income family is generally defined as a family whose annual income does not exceed 80 percent of median income for the area, as determined by HUD with adjustment for family size. HUD may establish income limits higher or lower than 80 percent of median income for the area on the basis of its finding that such variations are necessary because of prevailing construction costs or unusually high or low family incomes.

Ownership interest means ownership by an eligible family by fee simple title to a unit in an eligible property (including a condominium unit), ownership of shares of or membership in a cooperative, or another form of ownership proposed and justified by the applicant and approved by HUD pursuant to § 572.115(b).

Private nonprofit organization means any nonprofit organization that

(1) Is organized and exists under applicable Federal, State, territorial, local, or tribal law;

(2) Has no part of its net earnings inuring to the benefit of any individual, corporation, or other entity;

(3) Has a voluntary board;

(4) Has an accounting system or has designated a fiscal agent in accordance with requirements established by HUD;

(5) Practices nondiscrimination in the provision of assistance;

(6) Is a tax exempt entity under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), or for a private nonprofit organization in the Commonwealth of Puerto Rico, is a tax-exempt entity under Puerto Rico law;

(7) Is privately controlled and has a governing body that is controlled 51 percent or more by private individuals acting in a private capacity. An individual is considered to be acting in a private capacity if the individual is not an employee of a public body, is not appointed by or acting as the representa-

tive of a public body (including the applicant or recipient), and is not being paid by a public body (including the applicant or recipient) while performing functions in connection with the non-profit organization.

Program income means income earned from the program as described in parts 84 and 85 of this title, as applicable, except that program income does not include proceeds from the sale and resale of properties. Such sale and resale proceeds, and interest earned by the recipient or its designee on those proceeds, are governed by § 572.135(a) through (c).

Public body means any State of the United States; any city, county, town, township, parish, village, or other general purpose political subdivision of a State; the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, or a general purpose political subdivision thereof; any Indian tribe, as defined in title I of the Housing and Community Development Act of 1974; any public agency or instrumentality of any of the foregoing jurisdictions that is created by or pursuant to State, territorial, local, or tribal law, including a State or local Housing Finance Agency; and any PHA or IHA. For purposes of this definition, an organization that meets the requirements of paragraphs (1) and (2) of the definition of private nonprofit organization, but is controlled 51 percent or more by public officials acting in their official capacities, may qualify as a public body.

Recipient means the lead applicant that is approved by HUD to receive a HOPE 3 grant and is legally responsible for the grant.

Single parent means as the term is defined in 42 U.S.C. 12896.

[58 FR 36526, July 7, 1993, as amended at 60 FR 36018, July 12, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 48797, Sept. 16, 1996; 62 FR 34145, June 24, 1997]

§ 572.10 Section 8 assistance.

Assistance under section 8 of the 1937 Act and other rental assistance to the homebuyer will be terminated not later